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Syn. No. 9
2/12/02

TO: SUPERVISOR YVONNE BRATHWAITE BURKE, Chair
SUPERVISOR GLORIA MOLINA
SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN 
County Counsel

RE: **Abatement of Drug House Activities**

This is the final report to your Board regarding the best means of combating drug house activities, as required by your February 12, 2002, adoption of Supervisor Knabe's motion on this subject. An interim status report was provided on April 22, 2002.

This report discusses several initiatives and best practices intended to strengthen the County's ability to combat drug house activities, as well as other serious code enforcement problems. The report also discusses the enclosed ordinance which authorizes the abatement of drug house activities in the County's unincorporated area.

BACKGROUND

Representatives from the County Counsel's office, the District Attorney's office, the Sheriff's Department, the Department of Public Works, the Department of Regional Planning, the Community Development Commission, and the Chief Administrative Office ("the Code Enforcement Group") met twice regarding abatement of drug house activities.

At its first meeting, the Code Enforcement Group determined that drug house activities generally occur in hard-core, repeat-offender properties which have multiple code violations. The group also determined that coordination among the enforcing departments is essential to abate the nuisances these hard-core properties present. At its second meeting, the group further

discussed and refined best practices and joint initiatives which it believes will strengthen the County's code enforcement activities, including those involving drug houses.

BEST PRACTICES AND JOINT INITIATIVES

The Code Enforcement Group has identified several measures which will promote coordination among the enforcing departments. Those measures include cross-training department personnel; periodic interdepartmental code enforcement coordination meetings; and, to the greatest extent possible, development of uniform interdepartmental code enforcement policies and procedures.

Cross-Training

Code enforcement personnel sometimes lack a comprehensive understanding of other departments' regulations and procedures. Cross-training among the enforcing departments will increase coordination by facilitating the exchange of information regarding each department's function, area and scope of regulation, and enforcement procedures. Armed with this knowledge, code enforcement personnel will be better equipped to collaborate with other departments and make referrals to other agencies, when appropriate.

Most departments have formal training programs for their code enforcement officers. Therefore, for those departments, cross-training can be implemented by the attendance of other department personnel. In other situations, special cross-training will be scheduled. The Chief Administrative Office will coordinate the cross-training efforts.

Interdepartmental Code Enforcement Coordination ("ICEC") Meetings

Periodic interdepartmental meetings of high-level representatives from each of the code enforcing departments will be held to address the historical and systemic problems associated with coordinating code enforcement efforts. The goal of the ICEC meetings will be the development of a comprehensive multi-departmental approach to code enforcement. Identified deficiencies in that approach or operational difficulties will also be addressed and discussed.

Enforcement Policies/Procedures

The various code enforcing departments appropriately operate independently of each other in the execution of their duties. However, coordination of their efforts is essential. Interdepartmental policies and procedures will be developed to coordinate enforcement activities. The ICEC will oversee this activity.

PROPOSED ORDINANCE

Currently, under County Code Chapter 8.50, which was adopted by your Board in March 1989, the District Attorney or Sheriff may request a landlord to institute an action to recover possession from a tenant who is committing or

permitting to exist a drug related nuisance. If the landlord fails to do so within 60 days after receiving the request, the District Attorney or Sheriff may initiate an unlawful detainer action to evict the tenant. However, the landlord may only be named as a defendant in the action if it can be established that the "landlord aided or acquiesced to the illegal activity." Further, Chapter 8.50 does not allow for the recovery of the County's costs associated with the unlawful detainer action, nor does it address concerns about the landlord's safety.

Enclosed is a proposed ordinance which would replace the existing Chapter 8.50. It is patterned after Health and Safety Code section 11571.1. This statute has served as the basis for many illicit drug activity abatement ordinances throughout the state.

If adopted, the proposed ordinance would prohibit an owner, and his or her tenant, from using or allowing the property to be used for illicit drug activity. In addition, the proposed ordinance would allow the County Counsel to file an unlawful detainer action naming the owner and his or her tenant as defendants if the owner fails to file an action for unlawful detainer within 15 days of receiving written notice to do so. Additionally, for safety-related reasons, the proposed ordinance allows the County to accept an assignment of the owner's right to file an unlawful detainer action. It also allows for the recovery of costs associated with the County's investigation and prosecution of the action.

If you have any questions concerning this matter, please contact either me, Roberta Fesler, Senior Assistant County Counsel at 974-1861, John Krattli, Assistant County Counsel at 974-1838, or Thomas Boze, Senior Associate County Counsel at 974-0807.

LWP:RMF:TEB:gm

Enclosure

c: David E. Janssen
Chief Administrative Officer

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Board of Supervisors

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Jonathan E. Fielding, Director
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Department of Regional Planning

Carlos Jackson, Executive Director
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ANALYSIS

This ordinance amends Chapter 8.50 of the Los Angeles County Code as provided by subdivision (a)(4) of section 11571.1 of the California Health and Safety Code. The ordinance declares the use of property for unlawful controlled substance purposes a nuisance, prohibits an owner and his or her tenants from creating or permitting such a nuisance, and provides for the County Counsel to seek an injunction to abate such a nuisance. Additionally, the ordinance requires an owner to initiate an action to remove a tenant who is using property for controlled substance purposes. If the owner fails to bring and maintain an unlawful detainer action as required, the County Counsel may institute an action against the offending tenant and name the owner as an additional defendant. Alternatively, if the owner identifies personal safety-related reasons for failing to bring the action, the owner may assign the unlawful detainer action to the County. The ordinance provides that County's costs of suit and attorney's fees may be awarded against the owner and that any costs and attorney's fees awarded may be recorded as a lien on the subject property.

LLOYD W. PELLMAN
County Counsel

By:
THOMAS E. BOZE
Senior Associate County Counsel
Public Works Division

TEB:gm

01/02/03 (Requested)

02/24/03 (Revised)

129111-4

ORDINANCE NO. _____

An ordinance amending Title 8 - Consumer Protection and Business Regulations of the Los Angeles County Code relating to abatement of illegal drug activity in rental housing.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 8.50 is hereby repealed in its entirety.

SECTION 2. Chapter 8.50 of the Los Angeles County Code is hereby newly enacted to read as follows:

Chapter 8.50

DRUG RELATED ACTIVITY

8.50.010 **Property used for unlawful controlled substance purposes is a nuisance.**

Every building, place, land, or dwelling unit within the county of Los Angeles, maintained or used for the purpose of unlawfully selling, serving, storing, keeping, transporting, manufacturing, cultivating, or giving away any controlled substance, precursor, or analog, as defined under the California Uniform Controlled Substance Act, Division 10 of the Health and Safety Code, is a nuisance.

8.50.020 **Definitions.**

A. Notice: Any notice or documentation described in this chapter shall be sufficient if it is in writing and given either by personal delivery or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the last

address of the recipient known to the county. Service by mail shall be deemed to be complete at the time of deposit in the United States mail. Proof of service of the notice may be made by a declaration signed under penalty of perjury by any employee of the County of Los Angeles, which shows service in conformity with this section.

B. Tenant: As used in this chapter, tenant means all persons who hire a building, place, land, or dwelling unit, including tenants, lessees, boarders, lodgers, and others, however denominated.

C. Dwelling Unit: As used in this chapter, a dwelling unit means a structure or the part of a structure that is used as a home, residence, or sleeping place by any person who maintains a household or by two or more persons who maintain a common household.

8.50.030 Use of property for unlawful controlled substance purposes prohibited.

A. Every person who maintains, permits, or allows a nuisance, as defined by Section 8.50.010, to exist upon his or her property or premises, and every person occupying or leasing such property or premises of another who maintains, permits, or allows such a nuisance to exist thereon, 15 calendar days after service of written notice upon such person by the district attorney, sheriff, board of supervisors, or such other county office designated by the board of supervisors, ordering such person to remove, discontinue, or abate the same, is guilty of a misdemeanor, punishable by a fine not to exceed \$1,000, or by imprisonment in the county jail not to exceed a period of six months, or both such fine and imprisonment.

B. Each and every day that such person maintains, permits, or allows such nuisance to exist beyond the fifteenth day after the service of such notice is a separate and distinct offense.

8.50.040 Abatement of property used for unlawful controlled substance purposes -- Injunction.

Whenever the county determines that a nuisance, as defined by Section 8.50.010, is maintained, permitted, or allowed to exist, the county counsel may commence an action in the Los Angeles County Superior Court to temporarily and perpetually enjoin the owner of such property, and the person or persons maintaining, permitting, or allowing such nuisance to exist, from directly or indirectly maintaining or permitting such nuisance.

8.50.050 Abatement of property used for unlawful controlled substance purposes -- Action for unlawful detainer.

A. The county counsel may file an action for unlawful detainer against any tenant or person who is in violation of Section 8.050.010. In filing this action, the county counsel shall utilize the procedures set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, except that the following also shall apply:

1. Prior to filing an action pursuant to this section, the county counsel shall give at least 15 calendar days' written notice to the owner, requiring the owner to file an unlawful detainer action to remove a tenant who is in violation of

Section 8.50.010. This notice shall include sufficient documentation to establish such a violation and shall be served upon the owner and the tenant in accordance with Section 8.50.020 of this chapter. Within 15 calendar days of the mailing of the written notice, the owner shall provide the county counsel with either: (1) all relevant information pertaining to the unlawful detainer case; or (2) a written explanation setting forth any personal safety-related reasons for noncompliance, and an assignment to the county counsel of the right to bring an unlawful detainer action against the tenant. The assignment shall be on a form provided by the county counsel and shall contain a provision for payment to the County of Los Angeles for its costs of investigation, discovery, and reasonable attorney's fees, in an amount not to exceed \$600. If the county counsel accepts the assignment of the right of the owner to bring the unlawful detainer action, the owner shall retain all other rights and duties, including the handling of the tenant's personal property, following issuance of the writ of possession and its delivery to and execution by the appropriate agency.

2. Upon the failure of the owner to file an action pursuant to this section, or to respond to the county counsel as provided in subsection A.1, or having filed an action, if the owner fails to prosecute it diligently and in good faith, the county counsel may file and prosecute the action and join the owner as a defendant in the action.

3. If a jury or court finds the defendant tenant guilty of unlawful detainer in a case filed pursuant to subsection A.2, the County of Los Angeles may be

awarded costs, including the costs of investigation and discovery and reasonable attorney's fees. These costs shall be assessed against the defendant owner, to whom notice was directed pursuant to subsection A.1, and once an abstract of judgment is recorded, it shall constitute a lien on the subject real property.

B. In any proceeding brought under this section, the court may, upon a showing of good cause, issue a partial eviction ordering the removal of any person, including, but not limited to, members of the tenant's household, if the court finds that the person has engaged in the activities described in Section 8.050.010. Persons removed pursuant to this section may be permanently barred from returning to or reentering any portion of the entire premises. The court may further order as an express condition of the tenancy that the remaining tenants shall not give permission to or invite any person who has been removed pursuant to this subsection to return to or reenter any portion of the entire premises.

C. Notwithstanding subdivision (b) of section 68097.2 of the Government Code, the costs incurred in furnishing the testimony of an employee of the County of Los Angeles in an action brought pursuant to this chapter are waived.

[850TBCOC]